

**Minutes  
City Council/Redevelopment Agency  
City of Huntington Beach**

Monday, August 18, 2003  
6:00 P.M. - Room B-8  
7:00 P.M. - Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

An audiotape of the 6:00 p.m. portion of this meeting  
and a videotape of the 7:00 p.m. portion of this meeting  
are on file in the Office of the City Clerk.

The 5:00 p.m. portion of the meeting was recessed by the City Clerk to 6:00 p.m. in Room B-8 due to a lack of quorum.

**Call to Order**

Mayor Boardman called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 6:00 p.m. in Room B8.

**City Council/Redevelopment Agency Meeting Roll Call**

Present: Coerper, Green, Boardman, Cook, Hardy  
Absent: Sullivan, Houchen

**Motion to Recess to Closed Session – Approved**

By unanimous consent of all present, Sullivan, Houchen absent, motion to recess to Closed Session on the following items was approved.

**(City Council) Closed Session** – Pursuant to Government Code Section 54957.6 to meet with its designated representatives: Agency Negotiators: Ray Silver, City Administrator; William Workman, Assistant City Administrator; Clay Martin, Director of Administrative Services; Jim Engle, Director of Community Services; and Seven M. Berliner, Esq. and Bruce Barsook, Esq. of Liebert Cassidy Whitmore regarding **labor relations matters – meet and confer** with the following employee organizations: **MEO, MEA, PMA, FMA, HBPOA, HBFA, MSOA, SCLEA and Non-Associated.** (120.80)

**(Redevelopment Agency) Closed Session** – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the agency is a party. The title of the litigation is **Mulligan v. Redevelopment Agency**; Orange County Superior Court Case No. 740099; Court of Appeal No. G028980. **Subject: Mulligan v. Redevelopment Agency** (400.50)

**(City Council) Closed Session** – To confer with its City Attorney regarding pending litigation pursuant to Government Code Section 54956.9(b)(3)(A). (Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.) Number of Potential Cases: one. **Subject, Potential Litigation.** (120.80)

**(City Council) Closed Session** – Pursuant to Government Code Section 54956.9(a) to confer with its attorney regarding pending litigation which has been initiated formally and to which the city is a party. The title of the litigation is **City of Huntington Beach v. Huntington Beach Police Officers Association**; United States District Court, Case No. SA 01-1125 GLT.  
**Subject: Gun Range (120.80)**

**Reconvened City Council/Redevelopment Agency Meeting – 7:00 P.M. – Council Chambers.**

**City Council- Redevelopment Agency Roll Call**

Present: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy  
Absent: None

Mayor Boardman asked City Attorney Jennifer McGrath if there were any actions taken by the City Council or Redevelopment Agency in Closed Session that required a reporting. City Attorney McGrath responded that there were no actions to report.

**Pledge of Allegiance** – Led by Mayor Connie Boardman.

**Moment of Silence Observed**

Mayor Boardman requested observation of a “moment of silence” to reflect upon issues before the Council this evening.

**The City Clerk Announced Late Communications**

Pursuant to the Brown (Open Meetings) Act, the City Clerk announced Late Communications regarding agenda items that had been received by her office following distribution of the agenda packet:

Communication dated August 18, 2003, from the Director of Community Services submitting a revised Recommended Action for Council to approve which clarifies the fee structure titled *City Council Meeting of August 18, 2003, Item F-3, HCP Sports Complex Sponsorship*.

Communication from Huntington Beach Tomorrow dated August 16, 2003, titled *August 18, 2003 agenda item H-3c Re: Bond Issuance*, recommending that the City Council direct the City Administrator to submit alternatives for the repayment.

Communication dated August 18, 2003 from Linda Daily, Principal Analyst, Public Works titled *Late Communication Item F-2*.

Site map submitted by Mayor Pro Tem Cathy Green titled *Archeological Site Analysis for Pending Legislation SB18 City of Huntington Beach*.

**The Following Additional Late Communications Were Submitted During the Meeting:**

Communication submitted by Chuck Scheid during public comments titled *Public Comments 18 August 2003 City Council Meeting Agenda Item H-3d*.

Communication submitted by Mayor Pro Tem Cathy Green during the council meeting from the City Attorney dated August 18, 2003 titled *Response to August 6, 2003 Memorandum from Mayor Pro Tem Cathy Green Regarding Judgment Bond in Connection with Tax Refund*.

Communication submitted by Mayor Connie Boardman during the council meeting providing a calculation pertaining to the agenda item levying a tax rate of 4.4% representing cost of Pre 1978 benefits.

**Presentation** made by Mayor Connie Boardman of a commendation to Amy Saunders who was chosen to represent Huntington Beach in the Miss Junior America Pageant. Amy was nominated for her community service to the Orange County Humane Society – Huntington Beach Branch. (160.40)

**Presentation/Announcement** made by Mayor Connie Boardman who introduced Bill Hartge and Jodie Ciotti who presented a Powerpoint slide report regarding Mark Ivey, a local sailor who is raising money to represent the United States in the 470 dinghy classification in the 2004 Olympics to be held in Athens, Greece. (160.40)

**Mayor's Award** made by Mayor Connie Boardman and City Attorney Jennifer McGrath who presented the Mayor's Award to James R. Belisle from the City Attorney's office. James is a clerk in the City Attorney's Office. (160.40)

### Public Comments

**Dick Harlow** spoke in favor of the agenda item submitted by Mayor Connie Boardman regarding the Property Tax Refund Procedures. He requested that separate accounts be made for specific projects. Mr. Harlow stated that he supports Councilmember Pam Houchen's agenda item regarding Phase II of the Huntington Beach Zoning and Subdivision Streamlining process.

**John F. Scott** spoke in support of the agenda item regarding the Property Tax Refund Procedures. Mr. Scott stated that he opposes the proposed Santa Ana River Crossings for reasons including safety of the children in his neighborhood if the bridges were to be built. He urged Council to approve the recommendations regarding the "No Bridges" alternative.

**Ed DeMeulle**, Southeast Huntington Beach Neighborhood Association, spoke in opposition of the Santa Ana River Crossings and urged Council to approve the recommendations opposing the bridges.

**Gus Ayer**, Mayor of Fountain Valley spoke in opposition to the agenda item regarding the proposed Santa Ana River Crossings mitigation measures in the Environmental Impact Report covering the proposed Garfield/Gisler Bridge. Mr. Ayer requested Council to reconsider their position.

**Gerald Chapman** presented reasons why he opposed the method proposed to allow taxpayers to donate back their Howard Jarvis Retirement Property tax refund. Mr. Chapman presented an alternative recommendation.

Councilmember Sullivan suggested that to ensure a cleaner paper trail for the Internal Revenue Service the person receiving their refund should cash the check and then write a check back to the City.

**Ed Kerins**, President of Huntington Beach Tomorrow, read from his late communication that was announced earlier by the City Clerk. Mr. Kerins spoke in opposition to the agenda item relative to issuance of bonds to repay the Howard Jarvis Property Tax refund.

**Chuck Scheid** spoke in opposition to the agenda item proposing levying a 4.4% tax rate representing cost of Pre 1978 benefits, which is a reimplementation of the retirement property tax for fiscal year 2003-2004. Mr. Scheid read from his late communication submitted during public comments and requested that the tax rate of zero be continued through 2003-04.

**Linda Neilan** spoke in favor of the agenda item regarding the Pegasus School Project tax-exempt revenue bonds. She stated that improvements have not been made in cut-through traffic to her neighborhood and with the proposed bridges it will be worse. Ms. Neilan stated that in her opinion it is not the Pegasus School causing the cut-through problems. She urged Council to oppose the proposed Santa Ana River crossings. She informed Council that when Ward Street was closed there were no problems and red curbs, signs and many items are needed as she believes Ward Street cut-through traffic problems are caused by rush hour traffic.

**Ralph Bauer** stated that he would not apply for the property tax refund, as the money would be coming from needed public and safety services. Mr. Bauer spoke in favor of the proposed Poseidon Desalination plant.

**Gloria Padyon** requested that the shopping center at Brookhurst and Adams be upgraded. Ms. Padyon stated that in her opinion elderly people do not want to cross Brookhurst and Adams to go to the new Ralphs Grocery Store because of the danger due to heavy traffic.

**Debbie Borden** stated she wished to offer a prayer as there is not an Invocation on the agenda.

**Wayne and Kay Pulcini**, owners of a small restaurant on Bushard Street, stated that their business has been heavily impacted by the Bushard Street Sewer project. Mr. Pulcini requested a temporary waiver of the sign code so that he may put up a temporary sign telling people that they are open for business.

Mayor Connie Boardman requested that Mr. Pulcini fill out a blue follow up card.

Councilmember Debbie Cook stated that she would follow up with the Orange County Sanitation District regarding the Bushard Street Sewer project.

**Doug Korthof** requested that Cabrillo Mobilehome Park be retained, as it is wetlands that cannot be developed and that it be kept for affordable housing.

**Norm "Firecracker" Westwell** stated that in his opinion another eleven million dollars should be cut from the budget. Mr. Westwell presented recommendations and spoke in support of the proposed Poseidon Desalination Plant.

Councilmember Cook presented statistics reflecting how the Huntington Beach Water Department is very effective at cost savings.

**Don McGee** spoke in opposition to the proposed Districting Charter Amendment that proposes to reduce the number of councilmembers from seven to five.

**John** (no last name) presented recommendations, which would bring money into the city and not damage the beach environment such as boat races, motorcycle races on the sand, and events similar to the Long Beach Grand Prix.

**Gary Chough** informed Council that he is a CPA (Certified Public Accountant) and that in his opinion the City will not have to fill out a 1099 form for the property tax refund. He thanked Councilmember Sullivan for his efforts.

**(City Council) Council Committee Report – Accepted the Resignation of Vickie McDonald and Approved the Appointment of Jack Kirkorn to the ASCON/NESI Ad-Hoc Task Force Committee (110.20)**

The City Council considered a communication from Councilmembers Dave Sullivan and Jill Hardy transmitting the following **Statement of Issue**: In March of this year, the Planning Department received a call from a citizen interested in becoming a member of the ASCON/NESI Ad-Hoc Committee. Since the committee does not meet on a regular basis, the Planning Department was not aware of a vacancy. Ms. Charlotte Mason, the Committee Chairperson, informed staff that two of the four public members no longer participate in the meetings. On May 15, 2003, staff wrote these two members and requested that they inform the City in writing of their intention to participate on the ad-hoc committee or formally resign. One member resigned and the other was unable to be contacted.

The Planning Department posted the vacancy at City Hall and Central Library from June 24-July 18, 2003. The recommended appointee, Mr. Jack Kirkorn a retired firefighter for the City of Los Angeles, will be a welcome addition to the committee. The ASCON/NESI Task Force Ad-Hoc Committee meets on an as need basis. The duties of the members are to act in an advisory capacity only. The committee is not a formal board or commission and therefore there is no term limit. We as the ASCON/NESI Council liaisons recommend that the City Council consider the following motion:

A motion was made by Hardy, second Coerper to accept the resignation of Vickie McDonald and approve the appointment of Mr. Jack Kirkorn to the ASCON/NESI AD-HOC Committee.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Hardy

NOES: None

ABSENT: None (Cook, Houchen out of room)

**(City Council) Announcement Made Regarding the Huntington Beach Council on Aging Providing Funding for a Senior Outreach Position (720.10)**

Mayor Pro Tem Cathy Green announced that the Huntington Beach Council on Aging has provided funding for the position of Senior Outreach worker, new carpeting, and other items. She expressed her appreciation to the Council on Aging for their continued support. Mayor Pro Tem Green announced that there is a Senior Saturday at Pier Plaza on September 13, 2003.

**(City Administrator's Report) Announcement Made Regarding Public Works Agenda Item E-9 - Water Well No. 12 Improvements per the 2000 Water Master Plan (600.75)**

The City Council considered a communication from City Administrator Ray Silver presenting a department highlight on an agenda item relative to Water Well No. 12 Improvements per the 2000 Water Master Plan. He and Public Works Director Beardsley reported.

The communication transmitted the following **Statement of Issue**: A major goal of the Water Master Plan is to create the ability of the City's water system to utilize 100% groundwater or 100% import water at any given time, to meet annual demand. The total pumping capacity needed to meet this objective is about 23,000 gallons per minute. Over the last 10 years, we have adjusted our water usage demand forecasts downward to reflect dramatic water conservation successes while realizing steady growth. During this time, we also had to remove two wells from service and have reduced the pumping capacity of a third. With the completion of Well 12, we will have balanced the system demand by adding 3,000 gallons per minute to the groundwater pumping supply which is currently at approximately 20,000 gallons per minute, effectively meeting the master plan goal and completing our well system.

Well 12 is located on Skylab Drive on the Boeing Company property in the northwest portion of the City. It is also important to note that the City has worked closely with the Southern California Edison Company to install electric pumps that will be eligible for energy savings incentives of \$40,000 and will optimize our utility rates.

**(City Council) Public Hearing Held - Adopted Resolution No. 2003-58 Proposing a Cost-Recovery Revision to the City's Firemed Fee Schedule for Emergency Medical Services and Membership Fees (See Minute Item for Ordinance No. 3616 Relative to the Firemed Program) (340.20)**

Mayor Boardman announced that this was the time noticed for a public hearing to consider the following:

The City Council considered a communication from Fire Chief Duane Olson submitting proposed revisions to the City's FireMed user fee schedule. All proposed revisions are cost recovery in nature.

It is proposed that a new rate schedule be adopted which will require higher fees to be paid by persons, or their respective insurance companies, that use the City's Emergency Medical Services system.

The type of fees under consideration for revision include membership, Advanced Life Support, Basic Life Support, emergency ambulance transportation, specific medications, and related paramedic supply charges. The Huntington Beach Fire Department is proposing a revised user fee schedule that recovers the increased cost of these items or services.

Legal notice as provided to the City Clerk's Office by staff had been published and posted.

Fire Chief Duane Olson presented a PowerPoint slide report titled *Emergency Medical Services Revision to Fee Schedules Huntington Beach Fire Department August 18, 2003*, which had been included in the agenda packet.

Mayor Boardman declared the public hearing open.

There being no persons present to speak on the matter and there being no protests filed, either written or oral, the Mayor declared the public hearing closed.

Council received clarification from Fire Chief Olson regarding the proposed fees in relation to fees currently being charged by neighboring cities for Basic Life Support (BLS) and Advanced Life Support (ALS).

A motion was made by Green, second Hardy to:

Adopt **Resolution 2003-58** – *“A Resolution of the City Council of the City of Huntington Beach Setting Advanced Life Support, Basic Life Support, Emergency Ambulance Transportation, Medications and Specialized Supply Fees to be Charged by the Fire Department of the City of Huntington Beach,”* amending Resolution No. 2002-71.

The motion carried by the following roll call vote:

AYES:	Coerper, Green, Boardman, Cook, Houchen, Hardy
NOES:	Sullivan
ABSENT:	None

**(City Council) Public Hearing Held – Accepted as Adequate and Complete the 2002-2003 Annual Review and Monitoring Report of the Downtown Parking Master Plan Addressing Building Activity between June 1, 2002 and June 1, 2003 (Downtown Specific Plan Generally Bounded by Pacific Coast Highway, Sixth Street, Acacia Avenue and Second Street) – Forward to Executive Director of the California Coastal Commission (440.30)**

The City Council considered a communication from the Planning Department.

Mayor Boardman announced that this was the time noticed for a public hearing to consider the following:

**Applicant:** City of Huntington Beach Planning Department.

**Request:** Annual review of the Downtown Parking Master Plan addressing building activity between June 1, 2002 and June 1, 2003.

**Location:** Downtown Specific Plan area (generally bounded by Pacific Coast Highway, Sixth Street, Acacia Avenue and Second Street)

**Environmental Status:** Notice is hereby given that this agenda item is covered under Environmental Impact Report No. 82-2, approved in conjunction with the Downtown Specific Plan.

Legal notice as provided to the City Clerk's Office by staff had been published and posted.

Planning Director Howard Zelefsky presented a PowerPoint slide report titled *2003 Downtown Parking MasterPlane Annual Review and Monitoring Report* which was included in the agenda packet.

Mayor Boardman declared the public hearing open.

There being no persons present to speak on the matter and there being no protests filed, either written or oral, the Mayor declared the public hearing closed.

Councilmember Pam Houchen received clarification from Planning Director Zelefsky as to whether parking spaces would be added in the future.

Councilmember Sullivan inquired as to approximately how many parking spaces would be lost if first two blocks of Main Street were made into a pedestrian mall. Planning Director Zelefsky responded approximately 25 to 30 spaces and Economic Director David Biggs reported on what research had been done regarding the closing of Main Street to vehicle traffic. Economic Director Biggs stated that he would forward a copy of the analysis to Council.

A motion was made by Hardy, second Cook to accept as adequate and complete the annual review and monitoring report of *The Downtown Parking Master Plan* and forward to the Executive Director of the California Coastal Commission.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy  
NOES: None  
ABSENT: None

**(City Council) Public Hearing Held - Adopted Resolution No. 2003-59 Authorizing the CSCDA (California Statewide Communities Development Authority) to Issue Tax-Exempt Revenue Bonds for the Pegasus School Project (Located at 19692 Lexington Lane) (330.30)**

The City Council considered a communication from the Administrative Services Director.

Mayor Boardman announced that this was the time noticed for a public hearing to consider the following:

Public hearing to consider information concerning the proposed sale, execution and delivery by the California Statewide Communities Development Authority (the "Authority") of its Variable Rate Demand Revenue Bonds (The Pegasus School), Series 2003 (the "Bonds"), in an aggregate principal amount not to exceed Twelve Million Dollars (\$12,000,000). Proceeds from the sale of the Bonds are to be used to assist The Pegasus School (the "Corporation"), a California nonprofit public benefit corporation, in financing the costs of the acquisition of a school commonly known as The Pegasus School and located at 19692 Lexington Lane, Huntington Beach, California, (the "Facilities"), refinancing existing debt with respect to the Facilities and paying related expenses incurred in connection with the issuance of the Bonds (collectively, the "Project"). The owner and operator of the Facilities will be the Corporation.

The Bonds will be paid entirely from payments made by the Corporation under a loan agreement between the Corporation and the Authority. Neither the full faith and credit nor the taxing power, if any, of the City, the Authority and its members, the State of California (the "State") or any other political corporation, subdivision or agency of the State is pledged to the payment of the principal of,



premium, if any, purchase price or interest with respect to the Bonds, nor shall the City, the Authority and its members, the State, or any other political corporation, subdivision or agency of the State be liable or obligated to pay the principal of, premium, if any, purchase price or interest with respect to the Bonds.

The Public Hearing is intended to comply with the public approval requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended.

Legal notice as provided to the City Clerk's Office by staff had been published and posted.

Administrative Services Director Clay Martin presented a PowerPoint slide report titled *The Pegasus School Public Hearing for Tax-Exempt Financing, City of Huntington Beach August 18, 2003 Agenda Item D-3* which was included in the agenda packet.

Mayor Boardman declared the public hearing open.

There being no persons present to speak on the matter and there being no protests filed, either written or oral, the Mayor declared the public hearing closed.

A representative of Stradling, Rocca and Carlson responded to Councilmember's question stating that a parochial school could not apply for this form of revenue bonds.

A motion was made by Cook, second Coerper to:

1. Open the public hearing, take testimony, and close the public hearing on the proposed issuance of Revenue Bonds.

and

2. Adopt **Resolution Number 2003-59** – *"A Resolution of the City Council of the City of Huntington Beach Approving the Issuance and Sale of the California Statewide Communities Development Authority Variable Rate Demand Revenue Bonds (The Pegasus School), Series 2003 in an Aggregate Principal Amount Not to Exceed \$12,000,000 for the Purpose of Financing the Costs of the Acquisition of a School Commonly Known as the Pegasus School and Certain Other Matters Relating Thereto."*

The motion carried by the following roll call vote:

AYES:	Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy
NOES:	None
ABSENT:	None

### **Consent Calendar – Items Removed for Separate Discussion**

The following items were removed from the Consent Calendar for separate discussion:

(City Council) Position of Administrative Assistant for the Fiscal Year 2002-2003 as an Exception to the Hiring Freeze Adopted by the City Council on May 19, 2003 (to Maintain Essential Staff Support for the Fire Chief and Administration Division) (310.20)

(City Council) Affordable Housing Agreement for Lakeside Utica, LLC (5051 Pheasant Lane) – Provides One Off-Site Single Family Rental Unit to Satisfy Affordable Housing Requirement Relative to the Seven Detached Single Family Home Development Project at 2101 - 2113 Alabama Street (600.10)

(City Council) Hiring One Police Officer to Fill Vacated Position in the Investigation Bureau When an Officer is Assigned to OCATT (Orange County Auto Theft Task) Force as an Exception to the Hiring Freeze Adopted by the City Council on May 19, 2003 (310.20)

### **Consent Calendar – Items Approved**

On motion by Green, second Coerper Council approved the following Consent Calendar items, as recommended. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy  
 NOES: None  
 ABSENT: None

**(City Council/Redevelopment Agency) Minutes** (120.65) - Approved and adopted the minutes of the City Council/Redevelopment Agency Regular Meetings of June 2, 2003 and June 9, 2003 as written and on file in the Office of the City Clerk. Submitted by the City Clerk.

**(Redevelopment Agency) Appropriated Funds for “Developer Advance” Payment for the Hyatt Regency Grand Resort Project to Mayer Financial, LP** (320.45) Appropriated \$1,050,000 from the Agency’s Unencumbered Capital Projects Fund balance to the Redevelopment Agency’s Debt Service Account for the September 30, 2003 payment of the “Developer Advance” for the Hyatt Project. Submitted by the Deputy Executive Director. Funding Source: Agency’s Unencumbered Capital Projects Fund Balance.

**(City Council) Approved Huntington Beach Hotel/Motel Business Improvement District (BID) 2002-2003 Fiscal Year Annual Report - Adopted Resolution of Intention No. 2003-60 to Levy an Annual Assessment for Fiscal Year 2003-2004 - Scheduled Public Hearing for September 2, 2003** (460.30) – 1. Approved the Huntington Beach Hotel/Motel Business Improvement District Annual Report for Fiscal Year 2002-2003; 2. Adopted City Council **Resolution No. 2003-60** – “A Resolution of the City Council of the City of Huntington Beach Indicating the City’s Intention to Levy an Annual Assessment for Fiscal Year 2003-2004 to Fund Improvements Within the Huntington Beach Hotel/Motel Business Improvement District;” and 3. Directed the City Clerk to schedule a public hearing to be held on September 2, 2003, and send copies of the Resolution of Intention and assessment formula to each business to be assessed. Submitted by the Economic Development Director. Funding Source: Not applicable.

**(City Council) Approved Huntington Beach Auto Dealers Business Improvement District (BID) 2002-2003 Annual Report - Adopted Resolution of Intention No. 2003-61 to Levy an Annual Assessment for Fiscal Year 2003-2004 - Scheduled Public Hearing for September 2, 2003** (460.30) – 1. Approved the Huntington Beach Auto Dealers Business Improvement District Annual Report for Fiscal Year 2002-2003; 2. Adopted City Council **Resolution No. 2003-61** – “A Resolution of the City Council of the City of Huntington Beach Declaring Its Intention to Levy an Annual Assessment for Fiscal Year 2003-2004 to Fund Improvements Within the Huntington Beach Auto Dealers Business Improvement District;” and 3. Directed the

City Clerk to schedule a public hearing to be held on September 2, 2003, and send copies of the Resolution of Intention, BID Boundary Map, and assessment formula to each business to be assessed. Submitted by the Economic Development Director. Funding Source: Not applicable.

**(City Council) Approved Hiring One Detention Police Officer and Two Police Records Supervisors as an Exception to the Hiring Freeze Adopted by the City Council on May 19, 2003** (310.20) – Approved the hiring of one Detention Officer and two Records Supervisor positions as exceptions to the current hiring freeze and allow for immediate recruitment. Submitted by the Chief of Police. Funding Source: The existing, approved Police Department budget can absorb the cost of one Detention Officer and two Records Supervisors. The funds are available in the Police Department's General Fund Accounts for Jail and Records.

**(City Council) Approved Project Plans and Specifications and Authorized Advertisement of Bids for Water Well No. 12 Improvements per the 2000 Water Master Plan; CC-1063** (600.75) – Approved the project plans and specifications and authorized the Director of Public Works to request public bids for the construction of the Well No. 12 Improvements; CC-1063. Submitted by the Public Works Director. Funding Source: Budgeted for FY 2003-2004 from the Water Master Plan Account. Engineer's preliminary estimate is \$1,500,000.

**(City Council) Accepted the Public Works Department's Fair Share Traffic Impact Fee Program 2002-2003 Annual Report and Support Planned Program Expenditures** (340.20) – Accepted the *2002-2003 Traffic Impact Fee Annual Report* and support the planned program expenditures. Submitted by the Public Works Director. Funding Source: Report recommendations will be used in preparing the City's 2003-2005 budget for street improvements, special studies and staff expenditures related to administration and completing the program. Ultimate funding of efforts or portions of efforts will be through the Traffic Impact Fee Fund. (The Public Works Commission reviewed and approved this report on June 18, 2003.)

**(City Council) Approved the Position of Administrative Assistant for the Fiscal Year 2002-2003 as an Exception to the Hiring Freeze Adopted by the City Council on May 19, 2003 (to Maintain Essential Staff Support for the Fire Chief and Administration Division)** (310.20)

Councilmember Sullivan requested that this agenda item be removed from the Consent Calendar. He received clarification from Fire Chief Duane Olson regarding funding for this position.

A motion was made by Sullivan, second Green to:

Authorize the City Administrator to approve the position of Administrative Assistant as an exception to the current hiring freeze to maintain essential staff support for the Fire Chief and Fire Administration Division.

The motion carried by the following roll call vote:

AYES:	Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy
NOES:	None
ABSENT:	None

**(City Council) Continued to Date Uncertain the Affordable Housing Agreement for Lakeside Utica, LLC (5051 Pheasant Lane) – Provides One Off-Site Single Family Rental Unit to Satisfy Affordable Housing Requirement Relative to the Seven Detached Single Family Home Development Project at 2101 - 2113 Alabama Street (600.10)**

Councilmember Sullivan requested that this agenda item be removed from the Consent Calendar in order to receive clarification from staff regarding the proposed 30 year affordable agreement versus a 60 year affordable agreement.

Councilmember Sullivan requested continuance of this item to study whether affordable rental units should be affordable for 60 years rather than 30 years and to make it available at a more affordable income rate.

A motion was made by Sullivan, second Green to **continue to future date** the Agreement *Declaration Containing Covenants Affecting Real Property by Lakeside Utica, LLC, a California Limited Liability Company* (Attachment No. 1) by and Between the City of Huntington Beach and Lakeside Utica, LLC, and authorize the Mayor and City Clerk to sign, execute and record.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy  
NOES: None  
ABSENT: None

**(City Council) Approved Hiring One Police Officer to Fill Vacated Position in the Investigation Bureau When an Officer is Assigned to OCATT (Orange County Auto Theft Task) Force as an Exception to the Hiring Freeze Adopted by the City Council on May 19, 2003 (310.20)**

Councilmember Sullivan requested that this agenda item be removed from the Consent Calendar. Police Chief Kenneth Small responded to his inquiry regarding the workings of the Task Force.

A motion was made by Sullivan, second Green to:

**1.** Approve the hiring of one new Police Officer to fill the vacated position in the Investigation Bureau when an officer is assigned to the OCATT Force as an exception to the current hiring freeze and allow for immediate recruitment; and **2.** Approve the appropriation of \$132,704 from the unreserved, undesignated General Fund Balance, to be reimbursed by the grant from the OCATT Task Force Committee; and **3.** Authorize the expenditure of funds not to exceed \$132,704 to reimburse the OCATT Officer's costs including, salary, benefits, overtime and supplies.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy  
NOES: None  
ABSENT: None

**(City Council) Approved City Council Position on Legislation (Assembly and Senate Bills) Pending Before the Federal, State, or Regional Governments as Recommended by the City Council Intergovernmental Relations Committee (640.90)**

The City Council considered a communication from Councilmember Jill Hardy, Chair, Intergovernmental Relations Committee, on behalf of members, Mayor Connie Boardman and Councilmember Debbie Cook who have reviewed the following legislation and are transmitting the following **Statement of Issue**: Should the City Council authorize the Mayor to communicate the City of Huntington Beach's support for or opposition to legislation currently pending before the elected members of the Federal or State Legislatures or a regional body?

A motion was made by Cook, second Coerper to:

**Continue to Oppose AB 572 (Yee)** Employment as amended 07/21/03

**Continue to Support AB 710 (Correa)** OCTA Restructuring as amended 07/01/03

**Continue to Watch AB 968 (Correa)** Workers' Compensation as amended 07/14/03

**Withdraw Opposition & Continue to Watch AB 1324 (Steinberg)** Workers' Compensation as amended 07/14/03.

**Support SB 288 (Sher)** California Air Act of 2003 as amended 06/27/03

**Authorize a letter of Support for the Orangeline Development Authority's request for Federal Funding under the Transportation Equity Act for the 21<sup>st</sup> Century (Tea-21)** for pre-deployment planning of the initial 33-mile segment of the proposed commuter line from Los Angeles to Orange County.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy  
NOES: None  
ABSENT: None

Councilmember Debbie Cook presented reasons why Council should continue to watch and gather information before sending a letter of support on the following item.

A motion was made by Cook, second Coerper to:

**Continue to watch and gather information** regarding the recommended action to authorize the Mayor to sign a letter of support for the consolidation of the Municipal Water District of Orange County and the Orange County Water District.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy  
NOES: None  
ABSENT: None

Mayor Pro Tem Cathy Green presented several reasons why she opposes supporting SB18.

Discussion was held among Council concerning SB18.

A motion was made by Cook, second Hardy to:

**Support SB 18 (Burton)** Traditional Tribal Cultural Sites as amended 07/09/03

The motion carried by the following roll call vote:

AYES: Boardman, Cook, Houchen, Hardy  
NOES: Sullivan, Coerper, Green  
ABSENT: None

Councilmember Dave Sullivan expressed appreciation for City Clerk Connie Brockway's commitment to the Brown Act relating to open and public meetings.

A motion was made by Sullivan, second Green to:

**Support SCA 1 (Burton)** Amending the State Constitution to assure open and public meetings as amended 06/27/03

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy  
NOES: None  
ABSENT: None

**(City Council) Accepted Sewer Service Charge Performance Audit and Approved Introduction as Amended of Ordinance No. 3614 for Sewer Charge Modifications Amending HBMC Chapter 14.55 (640.10, 300.20)**

The City Council considered a communication from the Public Works Director transmitting the following **Statement of Issue**: Section 14.54.060 of the Huntington Beach Municipal Code (HBMC) requires the City Council to establish sewer service charges by ordinance. Chapter 14.55 of the HBMC establishes the specific amounts of the charges and the formula for modifying the charges. The Sewer Service Charge Annual Performance Audit is presented to the City Council as required by Section 14.54.070 Annual Program Review.

Deputy Director of Public Works Paul Emery presented a PowerPoint slide show titled *Sewer Service Fund Annual Performance Audit City of Huntington Beach Public Works Department August 2003* which was included in the Agenda packet.

Council received clarification from staff about CCI (Construction Cost Index) versus the CPI (Consumer Price Index).

A motion was made by Cook, second Coerper to:

1. Accept the Sewer Service Charge Performance Audit as presented;

and

2. Approve Introduction **as amended (multi-family dwelling rate \$5.1808)** of **Ordinance No. 3614** after the City Clerk reads by title - "*An Ordinance of the City of Huntington Beach Amending Chapter 14.55 of the Huntington Beach Municipal Code Relating to Rates and Charges for the Sewer Service User Charge*", amending Chapter 14.55 of the HBMC Relating to Rates, Charges, Annual CPIU (Consumer Price Index for all Urban Consumers) Adjustments and Billing Methodology for the Sewer Service Charge.

The motion carried by the following roll call vote:

AYES: Coerper, Green, Boardman, Cook Houchen Hardy  
NOES: None  
ABSENT: None  
ABSTAIN: Sullivan

**(City Council) Continued from August 4, 2003 - Approved Standard Sponsorship Agreement for HCP (Huntington Central Park) Sports Complex Banner, Scoreboard, Family Pavilion and Field Sponsorship Program (For Use with Spectrum Sports) (600.05)**

The City Council considered a communication from the Community Services Director and Special Projects Manager, Administration, informing Council that a *Standard Sponsorship Agreement* has been prepared for staff to use with Spectrum Sports to secure sponsorships for scoreboards, parking lot banners, family pavilions, and fields at the HCP Sports Complex.

Acting Manager Community Services Facility Development and Concessions David Dominguez presented a PowerPoint slide show titled *Central Park Sports Complex Sponsorship Program and Standard Agreement*, which was included in the agenda packet.

Councilmember Dave Sullivan received clarification from Community Services Director Jim Engle that the city will make a current list of interested sponsors that is our domain, so not to be in conflict with Spectrum Sports. Community Services Director Engle anticipates a March 2004 opening of the HCP Sports Complex.

A motion was made by Houchen, second Cook to:

1. Approve the proposed *Standard Sponsorship Agreement* for Sponsorship of the Huntington Beach Central Park Sports Complex and fees as proposed **with the fees presented in the "Analysis" section of this report to be considered minimum fees for each package.**

and

2. Authorize the Director of Community Services to enter into sponsorship agreements on behalf of the city with sponsors for the HCP Sports Complex using the standard agreement;

and

3. Authorize the Community Services Director and City Clerk to execute each agreement.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen Hardy  
NOES: None  
ABSENT: None

**(City Council) Approved for Introduction Ordinance No. 3615 Amending the Huntington Beach Municipal Code Chapter 13.08 Relating to Beach Regulations (Structures – Furniture on Beach – Pierside Pavilion – Beach Service Road) (640.10)**

The City Council considered a communication from the City Attorney transmitting Ordinance No. 3615 for consideration by Council.

After the City Clerk read by title, a motion was made by Boardman, second Green to approve introduction of **Ordinance No. 3615** - *“An Ordinance of the City of Huntington Beach Amending Chapter 13.08 of the Huntington Beach Municipal Code Relating to Structures/Furniture on the Beach.”* The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook Houchen Hardy  
NOES: None  
ABSENT: None

**(City Council) Approved for Introduction Ordinance No. 3616 Amending the Huntington Beach Municipal Code Chapter 8.68 Relating to the City’s Firemed Program (See Minute Item Regarding Resolution No. 2003-58 for Proposed Firemed Fee Schedule Revision) (640.10)**

The City Council considered a communication from the Fire Chief transmitting Ordinance No. 3616 for consideration by Council.

After City Clerk read by title, a motion was made by Boardman, second Sullivan to approve introduction of **Ordinance No. 3616** - *“An Ordinance of the City of Huntington Beach Amending Chapter 8.68 of the Huntington Beach Municipal Code Relating to the Firemed Program.”* The motion carried by the following roll call vote:

Fire Chief Duane Olson responded to Council’s question regarding the Emergency Medical Information Program, which replaced the Medical Information File. He informed Council that the new program allows the Fire Med member to retain the medical record within their residence. Fire Chief Olson informed Council that now members can update the information at any time and provide this record to firefighters and paramedics when an emergency occurs.

AYES: Sullivan, Coerper, Green, Boardman, Cook Houchen Hardy  
NOES: None  
ABSENT: None



**(City Council) Approved for Introduction Ordinance No. 3617 Amending the Huntington Beach Municipal Code Chapter 17.65 Relating to Fair Share Traffic Impact Fees Annual Program Review – Reporting Requirements (640.10)**

The City Council considered a communication from the Public Works Department transmitting Ordinance No. 3617 for consideration by Council.

After the City Clerk read by title, a motion was made by Boardman, second Coerper to approve introduction of **Ordinance No. 3617** - *“An Ordinance of the City of Huntington Beach Amending Chapter 17.65 of the Huntington Beach Municipal Code Relating to Traffic Impact Fees.”* The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook Houchen Hardy  
NOES: None  
ABSENT: None

**(City Council) Announcement Made by Mayor Pro Tem Cathy Green of Appointment of Tom Livengood to the Planning Commission Effective August 29, 2003 and Acceptance with Regret the Resignation of Don Stanton who is Moving from Huntington Beach (440.90)**

The City Council considered a communication from Mayor Pro Tem Cathy Green transmitting the following **Statement of Issue**: Mayor Pro Tem Cathy Green will announce her appointment of Tom Livengood to the Planning Commission and her acceptance, with regret, of the resignation of Don Stanton who is moving from Huntington Beach.

A motion was made by Coerper, second Sullivan to direct the City Clerk to record in the minutes the appointment of Tom Livengood to the Planning Commission **effective August 29, 2003**.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen Hardy  
NOES: None  
ABSENT: None

**(City Council) Announcement of the Howard Jarvis Property Tax - Removed from Agenda (630.40)**

Councilmember Dave Sullivan requested that his item regarding the announcement of the Howard Jarvis Property Tax Refund be removed from the agenda as the announcement is already being televised on HBTv3.

**(City Council) Motion Failed to Advertise the Howard Jarvis Property Tax Refund in the Huntington Beach Independent and the Huntington Beach Wave Newspaper – Directed Staff to Enclose Refund Information (as Amended) in the City’s Monthly Water Bill Prior to November (630.40)**

The City Council considered a communication from Councilmember Dave Sullivan transmitting the following **Statement of Issue**: The City of Huntington Beach should make a strong effort to inform HB property owners that a portion of their property tax was collected illegally for

properties owned between July 1, 1997 and June 30, 2001 and that they are entitled to a refund. My preference would be to mail the refunds directly to the property owners, but the city is following the claim process.

Councilmember Dave Sullivan stated that in his opinion the city should do everything possible to inform the citizens about the refund. He informed Council of the approximate cost to place an advertisement in the Huntington Beach Independent Newspaper and the Huntington Beach Wave Newspaper.

Considerable discussion among council regarding the potential costs involved in the newspapers advertisements.

A motion was made by Sullivan, second Coerper to:

Approve Item A (below) **as amended to include the word "partial"** on a card as an enclosure in the ~~October~~ city water bill **in such a cycle that all receiving the bill will receive it with their monthly bill prior to November.**

**ITEM A:**

**PARTIAL REFUND OF HUNTINGTON BEACH PROPERTY TAX**

You qualify if you owned property between **July 1, 1997 and June 30, 2001**

You must file a **CLAIM** to receive a refund

Download **CLAIM FORM** from: [www.surfcity-hb.org](http://www.surfcity-hb.org)

Or call the City Clerk's office at (714) 536-5227 and a form will be mailed to you

Claim must be submitted before December 4, 2003

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook Houchen Hardy

NOES: None

ABSENT: None

**(City Council) Motion Withdrawn – To Place Advertisement Notifying Property Owners of Partial Property Tax Refund ( . )**

A motion was made by Sullivan, second Green that the city place the above mentioned advertisement (Item A) in the Huntington Beach Independent Newspaper and the Huntington Beach Wave Newspaper each week starting August 28, 2003 and continuing until December 4, 2003.

Concilmember Sullivan withdrew his motion.

**(City Council) Motion to Place Advertisement in the Register and the Times Newspapers Notifying Property Tax Owners of Partial Property Tax Refund – Failed ( . )**

A motion was made by Sullivan, second Coerper to place the ad in Register and Times every other week until the deadline for filing has passed.

The motion **failed** by the following roll call vote:

AYES: Sullivan, Coerper  
NOES: Boardman, Cook Houchen Hardy  
ABSENT: None  
ABSTAIN: Green

**(City Council) Motion Failed to Approve Formation of an Ad Hoc City Council Property Tax Refund Committee to Work with Staff to Facilitate the Howard Jarvis Property Tax Refund Process (120.25)**

The City Council considered a communication from Councilmember Dave Sullivan transmitting the following **Statement of Issue**: The City of Huntington Beach has illegally collected an estimated 27 million dollars in property taxes for Employee Retirement Benefits. This is very unfortunate. It is important that the city be viewed as user-friendly and efficient throughout the refund process. The City Council should be involved in the planning and development of the refund process.

A motion was made by Sullivan, second Green to:

1. The City Council form an Ad Hoc City Council Property Tax Refund Committee to work with City Staff to facilitate the refund process; **and** 2. The City Council appoint two of its members to the above committee.

The motion **failed** by the following roll call vote.

AYES: Sullivan, Coerper, Green  
NOES: Boardman, Cook Houchen Hardy  
ABSENT: None

**(City Council) Directed Staff to Adopt Recommendations Regarding the City's Opposition to the Proposed Santa Ana River Crossings (SARX) at Garfield/Gisler and Banning/19th Streets Pertaining to OCTA (Orange County Transportation Authority), MPAH (Master Plan of Arterial Highways) and the SARX EIR (Environmental Impact Report) – Adopted Mitigation Measures Required for the "No Bridges" Alternative (800.10)**

The City Council considered a communication from Mayor Connie Boardman transmitting the following **Statement of Issue**: At a Study Session earlier this year, the Council learned of a proposal by the city of Costa Mesa to reach a compromise regarding the removal/retention of the bridges over the Santa Ana River at Banning and Garfield Avenues from the Master Plan of Arterial Highways. However, since the City Council of Costa Mesa had not yet acted on this plan, our Council chose not to pursue it.

On July 21, 2003, the City Council of Costa Mesa did approve several actions that are included in the back up with this H-item. On August 6, 2003, I met with Mr. Ed DeMuelle, the President of the Southeast Huntington Beach Neighborhood Association and Mr. John Scott to discuss the action of the Costa Mesa City Council. Both expressed support for the city of Huntington Beach to adopt similar measures as Costa Mesa.

Council received clarification from Transportation Manager Bob Stachelski regarding the proposed bridges that are in the Master Plan relating to potential developments.

A motion was made by Boardman, second Green to adopt the following actions on the proposed Santa Ana River Crossings (SARX) at Garfield and Banning Avenues.

1. Once again, convey the city's opposition to the design and construction of the proposed bridges at Garfield and Banning Avenues.

**and**

2. Request that OCTA Board of Directors certify the SARX Environmental Impact Report

**and**

3. In cooperation with OCTA and neighboring cities of Fountain Valley, Newport Beach and Costa Mesa, develop a program to implement the mitigation measures for the no bridges alternative.

**and**

4. Adopt mitigation measures identified in the SARX EIR required for the no bridges alternative.

**and**

5. Retain the Garfield and Banning bridges on the Master Plan of Arterial Highways at this time, but request that the surrounding jurisdictions not assume the two bridges will be built when considering long term planning studies, developments, and land use assumptions.

**and**

6. Request that OCTA upon completion of all feasible mitigations for the no bridges alternative, conduct a follow up study to confirm the deletion of the bridges from the circulation system and to take action to delete the bridges from the MPAH at that time.

The motion carried by the following roll call vote:

AYES:	Sullivan, Coerper, Green, Boardman, Cook, Houchen Hardy
NOES:	None
ABSENT:	None

**(City Council/Redevelopment Agency) Directed Staff to Prepare a License Agreement or Title to Wetlands in Exchange for Restoration/Perpetual Maintenance with the Huntington Beach Wetlands Conservancy Regarding Restoration and Maintenance of Little Shell Wetland Site (Beach Boulevard/Pacific Coast Highway) (440.60)**

The City Council considered a communication from Mayor Connie Boardman transmitting the following **Statement of Issue**: The Redevelopment Agency currently owns the one-acre parcel of land known as Little Shell, plus a buffer area around the wetland. The Huntington Beach Wetlands Conservancy has responsibility for the interim maintenance and management of the wetland under an agreement with the Agency. In the past, the Redevelopment Agency directed staff to try to sell the wetland to a third party that could use it for mitigation credit. Staff has explored the possibility of selling the wetland to a third party with no success (see attached memo for more background). Neither the City nor the Agency is in the position to maintain the wetland. There is currently a conservation easement on this property.

The Huntington Beach Wetlands Conservancy has expressed an interest in being the party to which the Agency could convey the wetland to, or to enter into a license agreement with to maintain the wetland area. Please see the attached memo for information from staff on these alternatives. Since past action by the Agency has been to attempt to sell the wetland for mitigation credit, Agency action is needed to move forward in this alternative direction.

A motion was made by Boardman, second Hardy to:

Direct staff to prepare an agreement with the Huntington Beach Wetlands Conservancy under which the Conservancy will either be granted title to the wetland in exchange for the restoration and perpetual maintenance of the area, or enter into a license agreement with the Huntington Beach Wetlands Conservancy for the restoration operation and maintenance of the area.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook Houchen Hardy  
NOES: None  
ABSENT: None

**(City Council) Directed Staff to: (1) Reaffirm the Claims Procedures as Set Forth in Resolution 2001-19 Regarding the Howard Jarvis Retirement Property Tax Refund Procedures; (2) Prepare Documents for Bond Issuance (Including Debt Service in 2003-2004 Budget) after December 7, 2003; (3) Council to Honor all Valid Claims from April 21, 2001; (4) Council Remain Open to Considering Serious Alternatives for Funding this Debt – Motion Failed to Prepare a Separate Form Permitting Claimants to Direct the Value of Their Refund Toward a Particular City Service (630.40)**

The City Council considered a communication from Mayor Connie Boardman transmitting the following **Statement of Issue**: On April 16, 2001, the City Council adopted Resolution 2001-19 which set forth the procedures and deadlines for filing tax refund claims in connection with the Howard Jarvis Taxpayers Association litigation. On July 30, 2003, the Court of Appeals upheld the decision of the trial court. On August 4, 2003, the City Council voted to refrain from filing an appeal to the California Supreme Court. Based on this decision, it is necessary to provide direction to staff regarding the procedures for processing refunds consistent with the court's decision.

The claims procedure established by Resolution 2001-19 extended the deadline to 90 days from transmittal of the case back to the trial court so that an order can be entered consistent with the Court of Appeal's decision. It is anticipated that the claims filing period will be approximately September 8, 2003, through December 7, 2003. It will not be possible to determine the total amount of refunds due prior to the closing of the claims filing period.

Lastly, it has come to my attention that some citizens may prefer to direct their refund toward a particular City service. I recommend the following language be prepared on a form and made available on the City's website and at the City Clerk's Office.

I authorize that any refund, including interest, which is paid pursuant to this claim be directed to the following:

<input type="checkbox"/> Infrastructure Fund	<input type="checkbox"/> Public Safety
<input type="checkbox"/> Community Services Programs	<input type="checkbox"/> Sister Cities Program
<input type="checkbox"/> Library Services Program	<input type="checkbox"/> Fourth of July
<input type="checkbox"/> Shipley Nature Center	<input type="checkbox"/> Art Center
<input type="checkbox"/> Project Self-Sufficiency	<input type="checkbox"/> General Fund

Considerable discussion was held among Council. Staff responded to Council's concerns regarding: (1) funding options; (2) honoring valid claims already filed; (3) statute of limitation of four years as set by court; (4) filing deadline; (5) individual refund amount calculations; and (6) approximate nineteen million dollar cost to the city.

City Clerk Connie Brockway requested a copy and received the communication submitted by Mayor Connie Boardman, which pertained to a calculation pertaining to this agenda item levying a tax rate of 4.4% representing cost of Pre 1978 benefits.

A motion was made by Boardman, second Houchen to:

Reaffirm the claims procedures as set forth in Resolution 2001-19 attached hereto.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook Houchen Hardy  
 NOES: None  
 ABSENT: None

A motion was made by Boardman, second Sullivan that:

**Council will honor all valid claims from April 21, 2001 and to approximately a date of 12-07-03 but not as yet determined.**

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook Houchen Hardy  
 NOES: None  
 ABSENT: None

Considerable discussion was held regarding; (1) Alternative options for payments such as bankruptcy or a Measure C vote; (2) City estimation of the total amount including the interest issue and estimations as to how much it will cost to process the refunds; and (3) use a tax credit in lieu of a refund.

Councilmember Sullivan stated that in his opinion bankruptcy is the option as it would provide the city an opportunity to restructure and afford reduction in excess employee benefit commitment.

A motion was made by Boardman, second Cook to:

Direct staff to prepare the necessary documents for City Council approval of a bond issuance after December 7, 2003, when the bond value has been established.

The motion carried by the following roll call vote:

AYES: Coerper, Green, Boardman, Cook Houchen Hardy  
NOES: Sullivan  
ABSENT: None

A motion was made by Boardman, second Coerper to:

Direct staff to include the debt service for the bond issuance in the 2003/2004 budget **when the amount of debt service is known.**

The motion carried by the following roll call vote:

AYES: Coerper, Boardman, Cook Houchen Hardy  
NOES: Sullivan  
ABSENT: Green

A motion was made by Boardman, second Green to:

Council remains open to considering serious alternatives for funding this debt.

The motion carried by the following roll call vote.

AYES: Sullivan, Coerper, Green, Boardman, Cook Houchen Hardy  
NOES: None  
ABSENT: None

Discussion among Council regarding the refund process and if citizens could donate their refund back to the city. Council consensus was that there are too many questions that need to be answered before proceeding.

Mayor Boardman withdrew from the agenda a recommended action to direct staff to prepare a separate form to permit claimants to direct the value of their refund to a specific purpose in the City.

City Clerk Connie Brockway requested that the City Attorney provide direction for processing a citizens request for pulling a claim that was previously filed.

**(City Council) Adopted Resolution No. 2003-62 Levying a Tax Rate of 4.4% Representing Cost of Pre 1978 Benefits Which is a Reimplementation of the Retirement Property Tax for Fiscal Year 2003-2004 – Motion to Amend Resolution No. 2003-62 Failed (340.90)**

The City Council considered a communication from Mayor Connie Boardman transmitting the following **Statement of Issue**: In 1966, and again in 1978, the electorate of the City of Huntington Beach approved a City Charter revision authorizing the City to provide retirement benefits to its employees, and further directing the City to levy a property tax in excess of 1% of the full cash value of property “sufficient to meet all obligations of the City for the retirement system in which the City participates.”

The City currently provides retirement benefits through a contract with the Public Employees Retirement System (PERS). In addition, the City provides a Supplemental Retirement Program offering survivor's benefits that replace certain PERS benefits to employees hired before 1998 and a Retiree Medical Plan subsidizing the cost for retirees to participate in the City-sponsored Health Plans. Although the City has participated in PERS since 1945, it has modified its retirement programs since July 1, 1978. For example, after July 1, 1978, the City began reimbursing employees for their contribution to PERS, as well as offering the Supplemental Retirement Program and the Retiree Medical Plan.

In December 1999, the Howard Jarvis Taxpayers Association (“HJTA”) filed suit challenging whether the City's property tax override violates Proposition 13, in a case entitled *Howard Jarvis Taxpayers Association, et al., v. County of Orange, and City of Huntington Beach as Real Party in Interest*, Orange County Superior Court Case No. 81-87-80 (“Case No. 818780”). At issue was whether the override is limited to only those retirement benefits the City paid for as of July 1, 1978, or for all City-paid retirement benefits, including those benefits authorized after July 1, 1978.

On April 2, 2001, the Superior Court held that under Proposition 13, the property tax override is unconstitutional “to the extent it exceeds the City's employer contribution for PERS retirement benefits that were in existence prior to July 1, 1978.” This means that the property tax override can only be used to pay the employer's contribution to PERS, and cannot be used to fund the City's payment of the employees' member contributions, the Supplemental Retirement Program or the Retiree Medical Program. It also means that the retirement property tax cannot be used pay for post-1978 amendments to the City's retirement contract with PERS. For example, in 2001, the City altered its safety employee retirement plan to 3% @ 50 from 2% at 50. Under the Court's decision, the City may not use the retirement tax to pay for the additional cost of offering the 3% @ 50 benefit.

On July 30, 2003, the Court of Appeal issued its opinion regarding the City's retirement property tax. The Court affirmed the decision of the trial court in virtually all respects by a 2-to-1 decision. Subsequently, under the Court of Appeal decision, the City may levy a retirement property tax to fund the employer's contribution to PERS for pre-1978 retirement benefits.

For fiscal year 2003/2004, PERS is requiring the City to contribute 8.997% of safety employee payroll as the City's employer's contribution for pre and post-1978 benefits. The City may levy a tax sufficient to pay that part of the employer's contribution that is attributable only to pre-1978 benefits.



In December 2000, PERS provided the City with a Cost Analysis for offering 3% @ 50. It indicated that 4.589% of employee payroll was "much more indicative of the long-term change in the employer contribution rate due to the plan amendment." Since 4.589% of the 8.997% rate represents the incremental cost of 3A% @ 50, the remainder of 4.408% represents the pre-1978 benefit of 2% @50. 4.408% of the safety employee payroll for 2003/04 is \$1,279,113.00. A tax levy sufficient to raise this amount of money is 0.00696% of assessed value. This works out to approximately a retirement tax of \$6.96 per year per \$100,000 of assessed value.

Late Communications were submitted to the City Clerk by staff of Resolution Numbers 4392, 4623, and 4300 adopted in past years relative to this matter.

Councilmember Sullivan stated that in his opinion staff should review Mr. Chuck Scheid's concerns regarding the June 30, 1978 benefit calculations prior to adopting the proposed resolution.

Staff responded to Council concerns regarding Mr. Chuck Scheid's comments, the court decision, and as to what basis did staff use in drafting the proposed resolution.

A motion was made by Sullivan, second Green to:

Adopt Amendment to Resolution 2003-62 to approve, on condition of reviewing communication dated August 18, 2003 received during this meeting from Chuck Scheid.

The motion **failed** by the following roll call vote:

AYES:	Sullivan, Green
NOES:	Coerper, Boardman, Cook Houchen Hardy
ABSENT:	None

A motion was made by Boardman, second Coerper to:

Adopt **Resolution No. 2003-62** – *"A Resolution of the City Council of the City of Huntington Beach Levying a Retirement Property Tax for Fiscal Year 2003/2004 to pay for Pre-1978 Employee Retirement Benefits,"* to levy a tax rate at 4.4% that represents the cost of pre-1978 benefits.

The motion carried by the following roll call vote:

AYES:	Coerper, Green, Boardman, Cook Houchen Hardy
NOES:	Sullivan
ABSENT:	None

**(City Council) Directed Staff as Amended Following Planning Commission Review to Initiate and Return to Council with Recommendations for a Phase II of the Huntington Beach Zoning and Subdivision Ordinance and Specific Plan Amending the Entitlement Permit Streamlining Process ( . )**

The City Council considered a communication from Councilmember Pam Houchen transmitting the following **Statement of Issue**: In January 2002, the City Council approved Zoning Text Amendment No. 01-04 by adopting Ordinance Nos. 3502 and 3532 and amending the HBZSO (Huntington Beach Zoning and Subdivision Ordinance) and implementing the first phase of the entitlement permit streamlining process. The Phase I amendment contained approximately 20 revisions to the HBZSO to streamline the entitlement process for these select users. To date, these amendments have streamlined the entitlement process, decreased processing times, created cost savings and improved customer service by allowing the review of an entitlement by a lower hearing body.

In times of budget reductions, staff cutbacks, and tough economic times, I believe it is the appropriate time to re-visit streamlining the entitlement process contained in the City's zoning and subdivision ordinance. The continued effort to streamline and expedite the entitlement permit process will continue to benefit both the City as well as the private sector.

I also believe that the Phase I approach may have been too limited in its scope by only focusing on the HBZSO. To expand on the streamlining effort, I'd like to see the continued analysis of the HBZSO and possible amendments to select specific plans. Therefore, I recommend the City Council consider the following motion:

Council received clarification from Planning Director Howard Zelefsky regarding the streamlining process which has decreased processing times and created cost savings.

A motion was made by Boardman, second Coerper to:

Direct the Director of Planning to initiate a zoning text amendment to amend the HBZSO and any specific plans as deemed necessary to streamline the entitlement permit process and return to the City Council with a recommendation as soon as possible **following Planning Commission Review**.

The motion carried by the following roll call vote:

AYES:	Sullivan, Coerper, Green, Boardman, Cook Houchen Hardy
NOES:	None
ABSENT:	None

**(City Council) Report on Police Officers Saving a Swimmer**

Councilmember Gil Coerper announced that two Police Officers had saved a life of a child who while swimming was pulled away from the shore. Their action prevented the child from drowning.

**(City Council) Congratulations to the Newly Sworn Fire Chief – Duane Olson**

Fire Chief Olson who was sworn in today as Huntington Beach Fire Chief and received the congratulations of Council.

**Adjournment – City Council/Redevelopment Agency**

Mayor Boardman adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to Monday, August 25, 2003, at 4:00 p.m., in the Council Chambers, Civic Center, 2000 Main Street Huntington Beach, California.

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City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach and Clerk of the Redevelopment Agency of the City of Huntington Beach, California

ATTEST:

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City Clerk-Clerk

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Mayor-Chairman